IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No. 5936 of 2004
Date of Decision: 28.8.2006

Satya Narain ...Petitioner

Versus

Ghisa Ram and others ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri D.D. Bansal, Advocate, for the petitioner.

None for the respondents.

JUDGMENT

Defendant No. 1 is in revision petition aggrieved against the order passed by the learned trial Court on 24.8.2004, whereby an application of the defendant to lead secondary evidence of agreement dated 18.10.1997 was declined.

The plaintiff has filed a suit for declaration challenging sale deed dated 29.10.1993 executed by the petitioner in favour of defendant Nos. 2 and 3 as well as a mortgage deed on the same date, executed by defendant Nos. 2 and 3 in favour of defendant No.4.

It is the case of the petitioner that the said sale deed was executed on the basis of agreement dated 18.10.1993 and that subsequently another agreement was executed on 18.10.1997. The defendant-petitioner wants to prove the subsequent agreement dated 18.10.1997. It has been found by the learned trial Court that the execution of the alleged agreement is denied by the plaintiff and that the defendant-petitioner has failed to establish the existence of the document. Since, there is no evidence of

existence of the said agreement, the petitioner cannot be permitted to lead secondary evidence of the said document.

After hearing learned counsel for the petitioner, I do not find any illegality or irregularity in the impugned order declining permission to lead secondary evidence of the alleged agreement dated 18.10.1997. Learned counsel for the petitioner could not point out any prima-facie evidence to show the existence of the agreement dated 18.10.1997. Since the existence itself is not even prima-facie proved to the satisfaction of the Court, therefore, petitioner was rightly found not entitled to lead secondary evidence of such document.

In view of the above, I do not find any material illegality or irregularity in the impugned order, which may warrant interference by this Court in exercise of its revisional jurisdiction.

Hence, the present petition is dismissed.

28.8.2006 (HEMANT GUPTA)
ds JUDGE